

99TH CONGRESS  
1ST SESSION

# H. R. 3008

To promote equitable pay practices and to eliminate discrimination within the  
Federal civil service.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1985

Ms. OAKAR (for herself, Mr. LELAND, Mr. GARCIA, Mrs. SCHROEDER, Ms. SNOWE, Mr. GEPHARDT, Mr. ALEXANDER, Mr. FORD of Michigan, Mr. CONTE, Mr. FISH, Mr. GRAY of Pennsylvania, Mr. UDALL, Mr. HAWKINS, Mr. RODINO, Mr. PEPPER, Mr. STOKES, Mr. GONZALEZ, Mr. ROYBAL, Mr. OBERSTAR, Mr. HOYER, Mr. CLAY, Mrs. SCHNEIDER, Mrs. KENNELLY, Mrs. BOXER, Ms. MIKULSKI, Ms. KAPTUR, Mr. CLINGER, Mrs. BURTON of California, Mrs. BOGGS, Mr. STRATTON, Mr. DYMALLY, Mr. DE LUGO, Mr. DELLUMS, Mr. LOWRY of Washington, Mr. BERMAN, Mr. BARNES, Mr. FAZIO, Mr. LEHMAN of Florida, Mr. YATES, Mr. TOWNS, Mr. CONYERS, Mr. FEIGHAN, Mr. WEISS, Mr. SMITH of Florida, Mr. WOLPE, Mr. WHEAT, Mr. KASTENMEIER, Mr. OWENS, Mr. KILDEE, Mr. CROCKETT, Mr. FRANK, Mr. MOODY, Mr. HAYES, Mr. STARK, Mrs. COLLINS, Mr. HOWARD, Mr. BEDELL, Mr. WORTH, Mr. SEIBERLING, Mr. SABO, Mr. EDWARDS of California, Mr. WEAVER, Mr. MRAZEK, Mr. EVANS of Illinois, Mr. FAUNTROY, Mr. WILLIAMS, Mr. MORRISON of Connecticut, Mr. MATSUI, Mr. GEJDENSON, Mr. GUARINI, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. COLEMAN of Texas, Mr. SIKORSKI, Mr. ROE, Mr. TORRES, Mr. RAHALL, Mr. MARKEY, Mr. LANTOS, and Mr. MINETA) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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## A BILL

To promote equitable pay practices and to eliminate  
discrimination within the Federal civil service.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the "Federal Equitable Pay  
3 Practices Act of 1985".

4 **SEC. 2. STATEMENT OF PURPOSE.**

5       (a) **PURPOSE.**—It is the purpose of this Act to deter-  
6 mine whether the Government's position-classification  
7 system under chapter 51 of title 5, United States Code, and  
8 prevailing-rate system under subchapter IV of chapter 53 of  
9 such title, are designed and administered in a manner consist-  
10 ent with the general policy, as expressed in title VII of the  
11 Civil Rights Act of 1964 and section 6(d) of the Fair Labor  
12 Standards Act of 1938, that sex, race, and ethnicity should  
13 not be among the factors considered in determining the rate  
14 of pay payable to any individual or for any position.

15       (b) **LINKAGE WITH GENERAL SCHEDULE.**—In the  
16 performance of any comparisons or analyses pursuant to this  
17 Act, subchapter III of chapter 53 of title 5, United States  
18 Code, under which General Schedule pay rates are estab-  
19 lished, shall be considered to be part of the position-classifica-  
20 tion system referred to in subsection (a).

21 **SEC. 3. COMMISSION.**

22       (a) **ESTABLISHMENT.**—There shall be established a  
23 commission to be known as the Commission on Equitable  
24 Pay Practices.

25       (b) **COMPOSITION.**—The Commission shall be composed  
26 of—

1 (1) the Comptroller General of the United States;

2 (2) the Director of the Office of Personnel Man-  
3 agement;

4 (3) 5 members appointed by the President, of  
5 whom—

6 (A) 2 shall be appointed upon the recommen-  
7 dation of the Speaker of the House of Representa-  
8 tives in consultation with the minority leader of  
9 the House of Representatives; and

10 (B) 2 shall be appointed upon the recommen-  
11 dation of the majority leader of the Senate in con-  
12 sultation with the minority leader of the Senate;  
13 and

14 (4) 4 members appointed by the Director of the  
15 Office of Personnel Management, of whom—

16 (A) 2 shall be appointed to represent the re-  
17 spective labor organizations representing (as ex-  
18 clusive representatives) the largest and the second  
19 largest numbers of individuals in Government  
20 service;

21 (B) 1 shall be appointed to represent employ-  
22 ee organizations having as a purpose promoting  
23 the interests of women in Government service and  
24 composed primarily of women holding positions

1 covered by either of the systems referred to in  
2 section 2(a); and

3 (C) 1 shall be appointed to represent employ-  
4 ee organizations having as a purpose promoting  
5 the civil rights of individuals in Government serv-  
6 ice and composed primarily of minority group  
7 members holding positions covered by either of  
8 the systems referred to in section 2(a).

9 To the extent practicable, appointments under this section  
10 shall be made with a view towards maintaining a fair balance  
11 in the interests represented and the functions to be performed  
12 by the Commission.

13 (c) CONDITIONS FOR MEMBERSHIP.—(1)(A) Members  
14 of the Commission appointed under paragraph (3) or (4) of  
15 subsection (b) shall not be officers or employees of the United  
16 States.

17 (B) If any member of the Commission referred to in sub-  
18 paragraph (A) becomes an officer or employee of the United  
19 States, that individual may continue as such a member for  
20 not longer than the 15-day period beginning on the date that  
21 such individual becomes such an officer or employee.

22 (2)(A) A member of the Commission appointed under  
23 subsection (b)(4) shall be the highest elected official (other  
24 than an officer or employee of the United States)—

1 (i) of the organization (or 1 of the organizations, if  
2 that individual represents 2 or more organizations)  
3 which that individual represents;

4 (ii) who agrees to serve.

5 (B) If any member of the Commission referred to in sub-  
6 paragraph (A) ceases to be the highest elected official from  
7 an organization who is eligible to serve on the Commission,  
8 that individual may continue as such a member for not longer  
9 than the 15-day period beginning on the first day that such  
10 individual ceases to be so eligible.

11 (3) An individual on leave without pay from the Govern-  
12 ment shall not, for purposes of this subsection, be considered  
13 an officer or employee of the United States.

14 (d) COMPENSATION.—(1) Members of the Commission  
15 shall receive no pay on account of their service on the Com-  
16 mission (except as provided in paragraph (2)), but while away  
17 from their homes or regular places of business in the perform-  
18 ance of services for the Commission, members of the Com-  
19 mission shall be allowed travel expenses, including per diem  
20 in lieu of subsistence, in the same manner as persons em-  
21 ployed intermittently in the Government service under sec-  
22 tion 5703 of title 5, United States Code.

23 (2)(A) Subject to subparagraph (B), a member of the  
24 Commission appointed under subsection (b)(3) may be paid at  
25 a rate not to exceed the daily equivalent of the rate of basic

1 pay payable for level IV of the Executive Schedule for each  
2 day (including travel time) the member is engaged in the per-  
3 formance of services for the Commission.

4 (B) A member of the Commission appointed under sub-  
5 section (b)(3) shall receive no additional pay by reason of  
6 service on the Commission for any period during which that  
7 individual continues to serve after becoming an officer or em-  
8 ployee of the United States.

9 (e) TIMING OF APPOINTMENTS; QUALIFICATIONS.—  
10 All appointments under paragraphs (3) and (4) of subsection  
11 (b) shall be made within 20 days after the effective date of  
12 this Act and shall be made from among individuals who are  
13 especially qualified to serve on the Commission by virtue of  
14 their expertise and experience.

15 (f) VACANCIES.—A vacancy in the Commission shall be  
16 filled in the manner in which the original appointment was  
17 made and shall be subject to any conditions which applied  
18 with respect to the original appointment.

19 (g) CHAIR AND VICE CHAIR.—The Chair and Vice  
20 Chair of the Commission shall be elected by the members of  
21 the Commission.

22 (h) QUORUM.—Six members of the Commission shall  
23 constitute a quorum.

1 (i) MEETINGS.—The Commission shall meet at the call  
2 of the Chair or a majority of its members, but at least once  
3 every 2 months.

4 (j) NONAPPLICABILITY OF LIMITATION.—Appoint-  
5 ments under this section shall not be considered for purposes  
6 of section 5311(b) of title 5, United States Code.

7 (k) TERMINATION OF COMMISSION.—The Commission  
8 shall cease to exist 90 days after completing the applicable  
9 requirements of section 7.

10 SEC. 4. POWERS OF THE COMMISSION.

11 (a) DIRECTOR; TECHNICAL ADVISORS; DETAILS FROM  
12 OTHER AGENCIES.—(1) The Commission—

13 (A) may appoint and fix the pay of a director  
14 without regard to chapter 51 and subchapter III of  
15 chapter 53 of title 5, United States Code, except that  
16 the rate of basic pay payable to the director may not  
17 be equal to or exceed the rate payable for GS-18 of  
18 the General Schedule; and

19 (B) shall procure the services of not less than 3  
20 and not more than 5 experts under section 3109 of  
21 title 5, United States Code, to serve as a source of  
22 technical advice for the Commission.

23 (2) Upon request of the Commission, the head of an  
24 agency may detail, on a nonreimbursable basis, any of the

1 personnel of such agency to the Commission to assist the  
2 Commission in carrying out its responsibilities under this Act.

3 (b) HEARINGS; OBTAINING INFORMATION; SUBPOENA  
4 POWER; MAIL; SUPPORT SERVICES.—(1) The Commission  
5 may, for the purpose of carrying out this Act, hold such hear-  
6 ings and sit and act at such times and places, take such testi-  
7 mony, and receive such evidence, as the Commission consid-  
8 ers appropriate. The Commission may administer oaths or  
9 affirmations to witnesses appearing before it.

10 (2) The Commission may secure directly from any  
11 agency any information necessary to enable it to carry out  
12 this Act. Upon request of the Commission, the head of such  
13 an agency shall, to the extent permitted by law, furnish such  
14 information to the Commission.

15 (3)(A) The Commission may issue subpoenas requiring  
16 the attendance and testimony of witnesses and the production  
17 of any evidence that relates to any matter under investigation  
18 by the Commission. Such attendance of witnesses and the  
19 production of such evidence may be required from any place  
20 within the United States at any designated place of hearing  
21 within the United States.

22 (B) If a person issued a subpoena under subparagraph  
23 (A) refuses to obey such subpoena or is guilty of contumacy,  
24 any court of the United States within the judicial district  
25 within which the hearing is conducted or within the judicial



1 district within which such person is found or resides or trans-  
2 acts business may (upon application by the Commission)  
3 order such person to appear before the Commission to  
4 produce evidence or to give testimony relating to the matter  
5 under investigation. Any failure to obey such order of the  
6 court may be punished by such court as a contempt thereof.

7 (C) The subpoenas of the Commission shall be served in  
8 the manner provided for subpoenas issued by a United States  
9 district court under the Federal Rules of Civil Procedure for  
10 the United States district courts.

11 (D) All process of any court to which application may be  
12 made under this section may be served in the judicial district  
13 in which the person required to be served resides or may be  
14 found.

15 (4) The Commission may use the United States mails,  
16 and receive administrative support services from the Admin-  
17 istrator of General Services, in the same manner and under  
18 the same conditions as other agencies.

19 (5) Any member of the Commission may, if so author-  
20 ized by the Commission, take any action which the Commis-  
21 sion is authorized to take under this subsection.

22 **SEC. 5. CONSULTANT.**

23 (a) **LIST OF QUALIFIED CONSULTANTS.**—The Comp-  
24 troller General of the United States shall prepare and, as  
25 soon as practicable after the Commission is established,

1 submit to the Commission a list of at least 5 consultants  
2 which, on the basis of their impartiality, expertise, and expe-  
3 rience, the Comptroller General considers appropriate to con-  
4 duct the study under this Act. Selections under this subsec-  
5 tion shall be made in accordance with the laws and regula-  
6 tions governing procurements by agencies generally.

7 (b) FINAL SELECTION.—The selection of a consultant  
8 to conduct the study under this Act shall be made by the  
9 Commission from among the consultants included on the list  
10 prepared under subsection (a).

11 SEC. 6. STUDY REQUIREMENTS.

12 (a) METHODOLOGY.—In order to carry out the purpose  
13 of this Act, the Commission shall provide, by contract with  
14 the consultant selected under section 5(b), for the conduct of  
15 a study under which job-content analysis and economic anal-  
16 ysis shall be applied with respect to a representative sample  
17 of occupations in which either sex is numerically predomi-  
18 nant, any race is disproportionately represented, or either  
19 ethnic group is disproportionately represented.

20 (b) COMPARISONS.—In performing the study, compari-  
21 sons shall be made—

22 (1) both within the same system (as referred to in  
23 section 2(a)) and between the respective systems (as so  
24 referred to); and

1           (2) both on an intra-agency and on an inter-  
2           agency basis.

3 **SEC. 7. REPORTING REQUIREMENTS.**

4           (a) **DEADLINE.**—The Commission shall, not later than  
5 18 months after the date of its establishment, submit to the  
6 President and each House of Congress—

7           (1) a copy of a report which shall be prepared by  
8           the consultant selected to perform the study under this  
9           Act; and

10           (2) comments of the Commission relating to such  
11           report.

12           (b) **INFORMATION TO BE PROVIDED IN CONSULTANT'S**  
13 **REPORT.**—Included in the report referred to in subsection  
14 (a)(1) shall be a detailed statement of the findings and conclu-  
15 sions of the consultant, pursuant to its study, with respect to  
16 differentials in rates of basic pay between or among occupa-  
17 tions compared on the basis of sex, race, and ethnicity, in-  
18 cluding—

19           (1) a list of any groups of occupations with re-  
20           spect to which differentials were found although the  
21           work performed in the respective occupations compris-  
22           ing any such group involved skills, effort, responsibil-  
23           ities, qualification requirements, and working conditions  
24           which, while not identical, were equivalent in totality;

1           (2) the extent to which any differentials identified  
2           under paragraph (1) can be accounted for by the appli-  
3           cation of job-content and economic analyses; and

4           (3) the extent to which any differentials identified  
5           under paragraph (1) cannot be accounted for by the ap-  
6           plication of job-content and economic analyses.

7 Any portion of a differential identified under paragraph (1)  
8 which cannot be accounted for by the application of job-con-  
9 tent and economic analyses is inconsistent with the general  
10 policy expressed in section 2(a) that sex, race, and ethnicity  
11 should not be among the factors considered in determining  
12 any rate of pay.

13       (c) COMMISSION COMMENTS.—(1) Included under sub-  
14 section (a)(2) shall be recommendations by the Commission  
15 concerning appropriate measures for eliminating any differen-  
16 tials under subsection (b) if, and to the extent that, such dif-  
17 ferentials cannot be accounted for by the application of job-  
18 content and economic analyses.

19       (2) The Commission shall identify which (if any) of the  
20 measures under paragraph (1) may be carried out pursuant to  
21 any authority available under existing law, and shall make  
22 recommendations for any legislation or administrative action  
23 needed to carry out the other measures under such para-  
24 graph.

1       (3) The Commission may not make any recommendation  
2 under this Act which involves a reduction in any rate of pay  
3 or grade.

4       (d) **ADDITIONAL REQUIREMENT.**—The Commission  
5 shall furnish a copy of the consultant's report, together with  
6 the Commission's comments, to each appointing authority in  
7 the legislative branch of the Government.

8 **SEC. 8. CONSTRUCTION.**

9       Nothing in this Act shall be construed to limit any of the  
10 rights or remedies provided under the Civil Rights Act of  
11 1964, section 6(d) of the Fair Labor Standards Act of 1938,  
12 or any other provision of law relating to discrimination on the  
13 basis of race, color, religion, sex, national origin, handicap, or  
14 age.

15 **SEC. 9. FUNDING.**

16       Sums appropriated to the Office of Personnel Manage-  
17 ment for general operating expenses shall be available to  
18 carry out this Act.

19 **SEC. 10. DEFINITIONS.**

20       For the purpose of this Act—

21               (1) "job-content analysis", as applied with respect  
22 to occupations, means an objective, quantitative  
23 method of rating representative entry-level positions  
24 within such occupations in order that—

1 (A) composite values may be established with  
2 respect to such occupations based on factors such  
3 as the skill, effort, responsibilities, qualification re-  
4 quirements, and working conditions involved; and

5 (B) comparisons may be made with respect  
6 to the positions and occupations involved;

7 (2) "economic analysis", as applied with respect  
8 to 2 or more occupations, means an objective method  
9 for analyzing differentials in pay between or among  
10 those occupations in order to determine if, and the  
11 extent to which, those differentials are attributable  
12 to—

13 (A) job-related factors such as seniority,  
14 merit, productivity, education, work experience,  
15 or veteran status;

16 (B) geographic factors; and

17 (C) other factors, exclusive of sex, race, and  
18 ethnicity;

19 (3) "occupation" means any grouping of positions  
20 within an agency, as identified or defined under chap-  
21 ter 51 of title 5, United States Code, or subchapter IV  
22 of chapter 53 of such title;

23 (4) "position" means the work, consisting of the  
24 duties and responsibilities, assignable to an individual;

1           (5) "ethnicity" refers to the quality of being, or  
2           not being, of Hispanic origin;

3           (6) "ethnic group" refers to a grouping based on  
4           ethnicity;

5           (7) an individual shall be considered to be of His-  
6           panic origin if such individual is of Mexican, Puerto  
7           Rican, Cuban, Central American, South American, or  
8           other Spanish origin;

9           (8) "consultant" includes an organization which  
10          provides consultant services;

11          (9) "Commission" means the Commission on Eq-  
12          uitable Pay Practices established under section 3;

13          (10) "labor organization" has the meaning provid-  
14          ed by section 7103(a)(4) of title 5, United States  
15          Codes;

16          (11) "exclusive representative" has the meaning  
17          provided by section 7103(a)(16) of title 5, United  
18          States Code;

19          (12) "agency" means an executive agency within  
20          the meaning of section 105 of title 5, United States  
21          Code (other than the General Accounting Office); and

22          (13) "Government" means the Government of the  
23          United States.

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1 SEC. 11. EFFECTIVE DATE.

2       This Act shall take effect 30 days after the date of the  
3 enactment of this Act.

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